

# THE RALPH M. BROWN ACT

California's Open Meeting ("Sunshine") Law

Government Code

Section 54950 et seq.

# Purpose:

To provide the public with access to the decision-making process of local legislatures

# Policy Declaration

“[t]he public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. **It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.** ... The people insist on remaining so informed so that they may retain control over the instruments they have created.”  
(GC 54950)

# Scope: Broadly construed in favor of Public Access

## Applies to:

- Meetings
- Of local legislative bodies

# “Legislative Body”

1. Governing body of a local agency.
2. Commission, board, committee, etc. created by formal action of legislative body.
3. Board of a private entity that either:
  - a. was created by the City Council in order to exercise authority delegation to it by the Council; or
  - b. received funds from the City and includes a City Council member if appointed by the Council.

# “Meeting”

1. Gathering of a majority of legislative body;
2. At same time and place;
3. To receive information, discuss an issue or take any action.

# Exemptions

1. Conferences or meetings open to public so long as no discussion of specific issues among themselves.
2. Purely social or ceremonial gatherings so long as specific business is not discussed.

# Serial Meetings Prohibited

A “Serial Meeting” is

1. a series of communications between individual members, that ultimately involve a majority;
2. regarding a specific issue to be addressed by the body;
3. to develop a concurrence on an action to be taken by the body.



# “Communication”

Includes face-to-face meetings, e-mail, phone calls and “personal intermediaries.”

## “Personal Intermediaries”

Can include City Staff.

# Open Meeting Requirements

1. No action on items unless properly agendized and posted.
2. Notice
  - a. Regular meetings set by ordinance, resolution or by-laws; 72-hour posting of Agenda.
  - b. Special meeting – 24 hours notice to members and media.
  - c. Emergency meeting – 1 hour notice to media.
3. Agenda – Clear description of issue to be discussed.
4. Opportunity for public to speak
5. Generally, meeting must be held within jurisdiction.

# Closed Meeting Exceptions

Body can only meet in private for specified reasons:

1. Litigation: pending; anticipated.
2. Real Estate Negotiations: limited to price and terms of payment.
3. Threat to public service/facilities: requires law enforcement or security personnel to be present.
4. Personnel: appointment or evaluation of public employee.
5. Labor negotiations.

# Criminal Sanctions

Misdemeanor, if member of a body:

- a. attends a meeting;
- b. where violation occurs;
- c. member intended to deprive the public of information
- d. knowing that the public was entitled to receive such information

# Civil Remedies

## 1. Invalidation of Action if:

- a. Written demand to cure within 90 or 30 (depending on violation) days of action complained of; and
- b. Corrective action is not taken within 30 days

A decision to take corrective action raises no inference that the action “cured” was unlawful.

# Civil Remedies continued

2. Injunction for Prospective Relief can be obtained:

- Without proof of knowing violation
- Without demand for cure of alleged violation

The Brown Act gives broad authority to courts to impose an order sufficient to stop and prevent violations.

# Civil Remedies continued

## 3. Attorney's Fees:

May be awarded to successful plaintiff in civil action for the Injunctive Relief or suit to invalidate.